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BY THE SENATE,

February 16th, 1860.

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# REPORT

OF THE

# COMMISSIONERS

OF

# PUBLIC WORKS

TO THE

# LEGISLATURE OF MARYLAND.

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# REPORT.

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*To the General Assembly of Maryland:*

The Commissioners of Public Works beg leave to report to your Honorable Body, in November last the terms of office of two of the Commissioners expired, and their places have been supplied by the election of others.

Owing to this circumstance, the present board has had little opportunity to consult each other (in relation to cardinal points) upon the manner in which they shall execute the duties confided to them by the Constitution of the State.

In reference to certain matters, however, they are wholly agreed, and they wish to call the attention of the Legislature to them, in order that it may understand the principles which will govern them in the discharge of their duties.

They are of opinion that the public works of this State were alike intended to develop the resources of the State, and to earn a revenue for the investments made by the State in them; they will, therefore, favor such rates of tolls as will maintain the revenues of the several internal improvement companies, at a standard of profit corresponding with that enjoyed by similar works in other States; believing that the upholding of this standard will not be a burden upon those who use these improvements as a means of transportation.

The people of the State, who do not enjoy the advantages of neighborhood to these improvements, contributed equally with those who do enjoy that advantage, to their construction. They are entitled to have those works so managed as to yield *revenue*; for in that revenue alone can they look for relief from the heavy taxation, which these improvements have made necessary, any other policy would create serious and reasonable discontents.

The Commissioners of Public Works, however, do not in-

voke any legislation as a proper means to remedy the defects, which they may believe exist in the present toll sheets of the works in which the State is interested, either as a stockholder or creditor. The chartered rights of the companies, incorporated by this State, do not allow the Legislature to regulate tolls at its pleasure. These charters are grants, which the State cannot modify or amend, without the consent of the several companies, unless in the charters themselves the right so to do has been reserved by the State.

It is needless to say that this has been too often and too firmly settled as a principle of law, to admit of any doubt; were it not so determined, there would be obvious reasons of policy to prevent the Legislature from thus interfering. The charter which an internal improvement company is authorized to make, constitute the franchise to those who invest their money in the works. If the Legislature exercised a right to regulate and reduce these rates at its pleasure, what capitalist could be found, who would regard the stock as worth anything? Its value would no longer depend on the amount of trade, which the companies could command, or on the profit which might be made by the wise and economical management of the company. It would, on the contrary, be subject to the pleasure of the Legislature, which could in a moments time practically destroy it.

Nor does the Legislature possess any sufficient power to remedy an error, which it might thus unintentionally commit, meeting but once in two years; a mistaken exercise of real or supposed authority might plunge a work into ruin, before an opportunity occurred of repairing the evil.

The Commissioners respectfully submit that the Constitution, in Article 7, section 1, contemplated the only safe and prudent course to be adopted in reference to matters of such delicacy and importance. It provided "that the Commissioners of Public Works should use all legal powers which they may possess, to obtain the establishment of rates of tolls which may prevent an injurious competition between the public works in which the State is interested, to the detriment of the interests of the State." Where the power of the State is controlling, by reason of its ownership of a majority of the stock, there is no obstacle to impede the Commissioners from making those gradual and experimental changes, which afford the only safe means of reform, where the interest of the State is not the controlling interest, where it has not, in a word, contributed the major part of the capital employed in the construction of the work, the undersigned need not say that it would be unjust for them, or for the Legislature, to attempt to subordinate the larger interest to the control of the smaller.

In such case the State ought to take its chance in the work with any other lien creditor, or stockholder, and the only duty then resting upon the Commissioners of Public Works, is to use "the legal powers" which they possess, to secure the proper management of the work. These legal powers are the influences which the Commissioners may exercise in the direction of the companies concerned, through the directors whom they may appoint to represent the State therein.

The Commissioners appreciate so highly the important trusts confided to them, that they have no hesitation in saying to the Legislature that they are resolved to prevent, as far as possible, said appointments from bearing the impress of political nominations; they are clearly alive to the mischiefs which would result from throwing the public works of the State as prizes into the arena of politics.

They expect to deserve the confidence of the State by restraining this growing tendency of the times, in the department of public service which they control. They cannot too earnestly recommend to the Legislature that it should, as far as possible, relieve the public works of the State from all burdens or charges, which are not directly connected with the loans made to the companies of the credit of the State. These works make a far larger return to the State than the interest which they may pay upon its investment. They add to the wealth of the State, and thus increase the basis from which the taxes of the State are drawn. Indeed, we have no doubt, that these works have already, in this manner, paid twice over the debt which the State has contracted for them, and the adoption of a wise and liberal policy towards them, they will do more. Every fetter, every hindrance ought to be taken from them; within the limits of their separate powers, they ought to be left free to develop every resource that the energy of their creditors can discover.

With these general observations, the Commissioners close their report. The reports made by the Comptroller, and the various Internal Improvement Companies, are before your Honorable Body. The purposes of the Commissioners have been not to comment on these, but to indicate the line of policy to which these companies ought to conform, and to which the Commissioners desire that the Legislature should give them the opportunity of adhering.

All of which is respectfully submitted, by order of the board.

LEMUEL ROBERTS, *President.*

STATE HOUSE, Feb. 16, 1860.



